



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

CRS

Docket No: 771-97

29 November 1999

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552
(b) SECNAVINST 1910.4A

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Naval Reserve, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected by changing the reason for discharge and the RE-4 reenlistment code assigned on 12 July 1994.

2. The Board, consisting of Mr. Cali, Mr. Kastner, and Ms. Newman, reviewed Petitioner's allegations of error and injustice on 23 November 1999 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Naval Reserve on 7 June 1994 and reported to active duty on the same day. At the time of his enlistment he had completed 12 years of formal education.

d. On 30 June 1994, while Petitioner was still in recruit training, a psychiatric evaluation found that he had a simple phobia of claustrophobia. The diagnosis was made based on Petitioner's complaint that he "did not like tight places".

e. On 7 July 1994 the commanding officer directed that Petitioner be separated by reason of simple phobia. On 12 July 1994 Petitioner received an entry level separation by reason of personality disorder. At the time Petitioner was assigned a reenlistment code of RE-4.

f. In an advisory opinion of 2 September 1999 and a clarifying memorandum for the record, the Specialty Advisory to the Surgeon General for Pyschiatry concludes, in effect, that Petitioner was correctly diagnosed with a simple phobia but does not have a personality disorder. Accordingly, the Specialty Advisory recommends that the reason for discharge be changed.

g. Reference (b) stated that a personality disorder, as defined in the Diagnostic and Statistical Manual (DSM-III), must be diagnosed in order to constitute a basis for separation by reason of convenience of the government due to a personality disorder. The DSM III does not list claustrophobia as a personality disorder.

h. Reference (b) also states that an individual may be separated by reason of best interest of the service if separation is appropriate but no other reason set forth in the reference covers the situation at hand. Individuals separated for this reason may receive a reenlistment code of RE-R1, RE-1, or RE-4. The RE-4 reenlistment code means that the individual is not recommended for reenlistment. An individual may be assigned an RE-3E reenlistment code if separated by reason of erroneous enlistment.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board notes that Petitioner's record contains no evidence that he was diagnosed as having a personality disorder, only a simple phobia. Therefore, the Board concludes that the reason for discharge is inappropriate and should be changed to "best interest of the service", a non-stigmatizing reason for separation which is assigned when no other reason is appropriate. In this regard, the Board believes that had the command been aware that separation by reason of personality disorder was improper, discharge action would have been initiated by reason of erroneous enlistment. However, the Board is unwilling to substitute this somewhat stigmatizing reason for separation without affording Petitioner notice and an opportunity to respond to it. Accordingly, the Board believes the nondescript reason of best interest of the service is appropriate. Lastly, since it appears that Petitioner's only problem in recruit training was that he had a fear of tight places, and since such a problem probably would have precluded his enlistment, the Board concludes that he should receive the

more accurate reenlistment code of RE-3E.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show he received an entry level separation by reason of best interest of the service on 12 July 1994.


b. That Petitioner's naval record be further corrected to show that on the same date, Petitioner was issued a reenlistment code of RE-3E instead of the RE-4 reenlistment code actually assigned on that date.

c. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.


4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director